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C O N F I D E N T I A L SECTION 01 OF 03 BAGHDAD 003105

SIPDIS

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SUBJECT: TNA AND CONSTITUTION COMMITTEE WOMEN GIVE CODEL SHAYS ONE VIEW ON WOMEN'S RIGHTS AND THE CONSTITUTION

REF: BAGHDAD 3014

Classified By: Political Counselor Robert Ford.
Reasons 1.4 (B) AND (D).

1. (C) SUMMARY. Women from the Transitional National Assembly, including from the Constitution Committee, told CODEL Shays and Ambassador on June 25 that women's rights would be protected in the draft constitution. They contended that it is a lack of understanding of the precepts of Islam that drives the fear Shari'a's potential role in the constitution, not shari'a itself. The women insisted that, under Shari'a, men and women are equal before the law. It is only with respect to personal status that equality could be compromised. Participants conceded that, overall, women are not unified on the issue of whether religion should be addressed in the constitution. However, they claimed, there is consensus that personal status should be regulated by sect. They also indicated they want laws that do not contradict with Shari'a but do not want to impose Shari'a on anyone. The Embassy is fully engaged on this issue and urging women across the spectrum in Iraq to develop a consensus viewpoint about how best to defend their rights so that we can weigh in with them. END SUMMARY.

2. (C) Female Transitional National Assembly (TNA) and Constitution Committee members told CODEL Shays and Ambassador on July 25 that women's rights would be protected in the draft constitution. In addition to Shia Coalition members Asma'a al-Shaboot and Amal Hussein al-Jabiri, Constitution Committee members Munira Abdul Muhammad (Kurdish Alliance), Nerkaz Majid Ammeen (Kurdish Alliance), and Ala'a al-Sa'adoun (Sunni negotiating team) agreed that the draft constitution should include a provision mandating that no legislation should contradict Shari'a. They expressed confidence that, regardless of how large a role Islamic law will ultimately play in the constitution, there would be no resultant degradation of women's rights.

3. (C) Both al-Shaboot and al-Jabiri contended that fear of a greater role for Shari'a in the constitution comes from a lack of understanding of the precepts of Islam. Further, said al-Jabiri, men have traditionally interpreted Shari'a to meet their own ends, which has negatively impacted the rights of women. Under Shari'a, she insisted, men and women are equal before the law. It is only with respect to personal status that equality could be compromised. The real concern, said al-Jabiri, is that Shari'a will not "allow a secular woman to rise and better herself."

4. (C) "We want laws that do not contradict with Shari'a," said al-Shaboot, "but we do not want to impose Shari'a on anyone." Added al-Sa'adoun, "We want progressive laws that promote women's rights." Using the hotly debated issue of polygamy as an example, al-Shaboot explained that, while Shari'a allows for polygamy, it does not say a man "must" have more than one wife. Thus, she argued, it is possible to draft legislation that would protect women who do not believe in this concept -- i.e., the first wife's permission would be required before her husband could take another wife -- yet not contradict Shari'a.

5. (C) The Ambassador expressed concern that the constitution texts not harm women's equal rights on issues like inheritance, marriage and divorce. Al-Shaboot acknowledged that some women have interpreted language proposed for inclusion in the draft constitution as limiting the rights they currently enjoy under the Personal Status Law No. 188 of 1959. A specific point of contention, noted al-Shaboot, was the article regulating an individual's personal status (No. 14), which mandated the regulation of an individual's personal status in accordance with his/her religion. Although she interpreted this language as giving an individual the opportunity to choose the code by which he/she would be regulated, she said many secular, non-Muslim women fear that it

would bind them to Islamic law. (NOTE: This article has been included in only one of the draft versions -- the July 17 draft -- that we have seen thus far. That article read "The Law shall regulate civil affairs of Muslims and others in accordance with their religion and personal sect." The July 21 draft did not have it. END NOTE.)

16. (C) However, said al-Shaboot, in a meeting with Constitution Committee members following a July 19 protest (ref A) organized by these women, Committee members allayed many of those fears, including concerns that Law No. 188 would be obviated by language such as in once-proposed Article 14. (COMMENT: International interlocutors who attended the same meeting told PolOff on July 23 that some women felt the Committee turned a deaf ear towards their concerns and used the meeting as a forum to defend the Committee's draft. This divergence of opinions underscores the lack of a unified understanding on the impact of Shari'a law in the constitution. END COMMENT.) Al-Sa'adoun added it is imperative that the right for a person to choose the personal status law applicable to him or her be written into the law.

17. (C) The women conceded that, overall, women are not unified on the issue of whether religion should be addressed in the constitution. However, they claimed, there is consensus that personal status should be regulated by sect and individuals should have the right to choose a progressive civil code as an alternative -- even though this has yet to be formally decided in the context of the constitution. Al-Sa'adoun said the current personal status code, which many consider to be the most progressive in the region, is a composite of the best aspects of the personal codes of all sects. She insisted, and her colleagues agreed, that Law No. 188 should not be replaced unless it can be improved.

18. (C) When asked whether they saw Shari'a as limiting their rights, each woman answered that it does not -- despite the fact there is a widely held perception that this is the case. Al-Jibiri pointed out that Iraqi women engage without restriction in normal, everyday activities like everyone else -- driving, working, and participating in the Government -- none of which contradicts with the precepts of Islam.

19. (C) Muhammed made the final comments, predicting that the draft constitution would include a quota requirement of not less than 25 percent (women currently comprise 32 percent of the TNA). Additionally, she noted that there would be a two-term (eight year) limit to the quota. (NOTE: Acting Minister of Human Rights Narmin Othman told PolOff on July 26 that information she had received from the Committee earlier in the day indicated that the term limit had been removed from the latest version of the draft, and that Shari'a would be 'a' source, not 'the' source or even a 'main' source. A well-connected Western journalist told us July 27 that her women sources also are telling her that the amendments coming forward to the July 21 draft are improving the protections for women. We are far from the end of negotiations, however. END NOTE.)

COMMENT

110. (C) It must be noted that these women present a somewhat one-sided view regarding the debate on women's rights in the context of the constitution drafting process. There are Iraqi women who are more vocal in their worries about Islamic Shari'a and women's rights. Interestingly, the two Kurdish women generally agreed in principle with their more conservative counterparts; some of our other Kurdish women contacts are quite vocal about keeping references to Shari'a out of the text. This meeting serves to remind that there is a large bloc of Iraqi women who are more comfortable about references to Shari'a. This divergence of viewpoints, even among Iraqi women, makes determining what would be the optimal text to protect women's rights a deeper, more complex discussion. Were Iraqi women themselves to develop a consensus viewpoint on how women's rights and Shari'a should be handled in the final draft text, they would be better able to lobby for it. The Embassy is fully engaged on this issue and urging women across the spectrum in Iraq to develop a consensus viewpoint about how best to defend their rights so that we can weigh in with them. We see hints that a consensus may develop for general

language in the draft constitution that leaves open choice for using either sectarian courts or a Law 188-like code. END COMMENT.

11. (C) BIODATA:

Nerkaz Majid Ameen, a Sunni Kurd from Irbil, was elected to the TNA on the Kurdish List and is a member of the PUK. She is a member of the Constitution Committee. Nerkaz holds a law degree and is a judge in Sulamaniyah.

Munira Abdul Muhammad, a Sunni Kurd from Sulamaniyah, was elected to the TNA on the Kurdish List and is a member of the PUK. She is a member of the Constitution Committee and on the Shape of the Ruling System Sub-Committee. Muhammad, who earned a degree in Chemical Science at Baghdad University, is a member of the Kurdistan Women's Union and was a member of the Interim National Assembly.

Amal Musa Hussein al-Jabiri, a Shi'a Islamist from Karkh, Baghdad, was elected to the TNA on the 169 List and is a member of the Da'wa Party. Al-Jabiri, who is fluent in English and French, was trained as a medical doctor, serving Al Amarah, Sulamaniyah, and Baghdad. She was also a member of the Interim National Council.

Asma'a al-Shaboot, a Shi'a Islamist from Kut, Wasit, was elected to the TNA as the number three candidate on the 169 List and is a member of the Iraqi Future Gathering Party. She is a professor at the Marine College in Baghdad and a member of the Shi'a Political Council.

Ala'a Abd Allah Hamoud al-Sa'adoun, a Sunni Arab from Basrah, was selected by the Sunni Conference to participate on the Constitution Committee. She is also a member of the Rights, Duties, and General Freedoms Sub-Committee. She is the Vice-President of the Islamic League for Iraqi Women and a student of Islamic science. END BIODATA.

12. (U) REOs Hillah, Basrah, Kirkuk, Mosul minimize considered.

Khalilzad